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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	85864287
Applicant	Shanon Preston
Applied for Mark	UNRATED
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Mark: **UNRATED**

Applicant: **Shanon Preston**

Serial No.: **85/864,287**

Filing Date: **Mar. 1, 2013**

Examining Attorney: **Wendell S. Phillips III**

Law Office No.: **110**

Attorney Docket No.: **13#629**

Applicant's Reply to Examiner's Statement

In support of Examiner's assertions regarding the relatedness of footwear and apparel, Examiner introduced website evidence and summarized that evidence in paragraph 2 of Examiner's Statement. However, Examiner's evidence supports the well-understood idea that a manufacturer's/owner's retail establishments do not commonly sell the goods of third parties. Here is the Examiner's table, recast to highlight the Owner's online retail stores that also feature any third-party goods on the portions of the website submitted by the Examiner.

Mark Used on Goods	Third-Party Goods?	Nature of Evidence
ADIDAS	No	Owner's online retail store
BANANA REPUBLIC	Unclear (see Note 1)	Owner's online retail store
BCBGMAXAZRIA	No	Owner's online retail store
BETSEY JOHNSON	No	Owner's online retail store

Mark Used on Goods	Third-Party Goods?	Nature of Evidence
BROOKS BROTHERS	No	Owner's online retail store
EXPRESS	No	Owner's online retail store
FOREVER 21	No	Owner's online retail store
KATE SPADE NEW YORK	No	Owner's online retail store
LC LAUREN CONRAD	Not relevant	Third-Party' online retail store (Examiner intentional filtered the display to a single brand, so results are not relevant)
MARC JACOBS	No	Owner's online retail store
NIKE ["Swoosh" design]	No	Owner's online retail store
OLD NAVY	No	Owner's online retail store
REBECCA MINKOFF	No	Owner's online retail store
SPLENDID	No	Owner's online retail store
TORY BURCH	No	Owner's online retail store

Except for the Banana Republic website¹, Examiner's evidence shows that the Owner's online retail store *does not include the goods of third parties*. Examiner's own evidences tends to support the notion that Applicant's amendment to limit on his Goods and Services is a limitation that significantly reduces any likelihood of confusion.

Yours truly,
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¹ The Banana Republic website shows a "Mad Men® Collection Straw Fedora"; however, a off-the-record review of the US Trademark Office records does not show any such registered mark for hats or fedoras. Thus, it remains unclear if this hat is actually a third-party good or rather an inadvertent over-use of the registration symbol.